

REMARKS

The Examiner is thanked for taking the time to discuss the application with the undersigned on September 16, 2003. Claim 36 has been amended as indicated on September 26, 2003 following the first discussion better to point out that which applicants regard as their invention. Moreover, a new independent claim 37 has been added providing further detail in part (a) and a minor editorial change has been made to claim 9 to recite a definite article. Claims 4 to 37 are before the Examiner.

The rejection of claims 4, 6, 8, 9, 11 to 13, 15 to 32 and 34 to 36 under 35 USC 103 as unpatentable over Ishikawa et al. '912 in view of JP '940 and JP '980 is respectfully traversed.

The most recent Office Action contained a statement that JP '940 at Fig. 4 "teaches that it is known to provide a container with an open lower end being wider than the upper wall." One purpose of the earlier telephone discussion noted above was to learn why the Examiner reached that conclusion.

During the course of the telephone discussion on September 16, 2003, the Examiner stated that she believed JP '940 to show a bottom wall 2 and a side wall 3 in Fig. 4 and that from such a

Serial No. 09/319,741

perspective, the lower end is wider than the upper wall and open.

Also during that discussion, the Examiner stated that she believed JP '980 to show a horizontal element (31) that is able to lock with element 32 and is in a plane below the upper wall. (The most recent Office Action also contained a statement that JP '980 "teaches that it is known to provide a container with a horizontal strip on a plane below the upper wall" and applicants wanted to know how that conclusion was reached.) Applicants inform the Examiner with respect that the interpretation of what both these references are said to teach is not correct.

With respect to JP '940, enclosed herewith is a partial translation of the document directed to Fig. 4. A review of that translation shows that element 2 is a container body and not a bottom wall and that element 3 is a lid frame rather than a side wall. Applicants therefore respectfully submit that the reference shows a container body 2 that does not have an open lower end and that the lower end of that body is narrower than the upper end of the container body. Moreover, lid frame 3 has nothing to do with a side wall.

With respect to JP '980, a partial translation, copy enclosed, directed to element 31 shows that element is a catching member capable of engaging the locking part 32 of the hinged lid 23 and is not a horizontal strip. Thus, these secondary references do not teach or show what the Examiner asserts they do and the rejection should be withdrawn for that reason alone.

The Examiner also stated during the September 16, 2003 discussion she believes that the part between elements 33 and 34 in Ishikawa '912 is a rounded inclined wall. Even so, the recessed portion (see element 28) of the device shown in that reference is beyond the rounded inclined wall. Claim 36 has been amended specifically to state that the recessed portion is provided at a rounded inclined wall. The rejection should be withdrawn.

Moreover, new claim 37 specifies that the recessed portion is provided on a rounded inclined wall extended from the upper wall to the side wall, the upper wall having a depressed part formed near a free end edge of the hinged lid and an upper end part of the side wall. Such a structure clearly is not taught or suggested in Ishikawa et al. '912.

Serial No. 09/319,741

Lastly, applicants respectfully submit that features (1) to (3) of the container body recited in both claim 36 and claim 37 are not taught or suggested by the references in combination. The rejection should be withdrawn.

The rejections of claims 5, 7, 10, 14 and 33 under 35 USC 103 as based upon the references is to reject the claims discussed above taken with additional references are also respectfully traversed. The tertiary references are cited to show features that are not directed to the issue concerning claim 36 and the other claims rejected in the initial rejection and none of those tertiary references overcome the deficiencies of the references discussed above. These rejections should be withdrawn as well.

In view of the foregoing revisions and remarks, it is respectfully submitted that all claims 4 to 37 are in condition for allowance and a USPTO paper to those ends is earnestly solicited.

Serial No. 09/319,741

The Examiner is requested to telephone the undersigned if additional changes are required in the case prior to allowance.

Respectfully submitted,

PARKHURST & WENDEL, L.L.P.

October 10, 2003  
Date

(Charles A. Wendel)  
Charles A. Wendel  
Registration No. 24,453

CAW/ch

Enclosures:

Partial translation of JP '940  
and '980

Attorney Docket No.: DAIN:513

PARKHURST & WENDEL, L.L.P.  
1421 Prince Street  
Suite 210  
Alexandria, Virginia 22314-2805  
Telephone: (703) 739-0220

Partial Translation

JP54-106940

(A)

Fig. 1 shows an embodiment of the present invention. Wet tissues of rolled shape are contained in a container body 2. A lid frame 3 is fixed to an upper portion of the container body 2 in an air-sealed manner by fitting or adhesion.

(B)

Fig. 4 shows another modification of the present invention. In this modification, a plurality of wet tissues are contained in the container body 2 in a folded manner so that each of the tissues can be consecutively taken out. The uppermost tissue protrudes from the tissue drawing opening 5. Other members in Fig. 4 are almost the same as those in Fig. 1, and therefore these members have the same reference numerals as those in Fig. 1.

JP8-80980

(C)

A catching member 31 is fixed to one end of the outer frame 33, and the hinged lid 23 has a locking part 32 capable of engaging with the catching member 31.